

2:37 p.m.
6-25-09

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MINI MELTS, INC.,

Plaintiff,

v.

RECKITT BENCKISER, INC.,

Defendant.

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Case No. 4:07-cv-271

JURY VERDICT

QUESTION 1

Did Defendant prove by clear and convincing evidence that:

- 1) Plaintiff made a false representation of material fact in the declaration of use and incontestability;
- 2) Plaintiff knew or believed that the representation was false;
- 3) Plaintiff made the representation with the intent to induce the Patent and Trademark Office (hereafter "PTO") to act or refrain from acting in reliance on the misrepresentation;
- 4) There was reasonable reliance by the PTO on the misrepresentation; and
- 5) There were damages as a result of such reliance?

Answer "Yes" only if you find that Defendant has proved all of the above by clear and convincing evidence. Otherwise, answer "No".

Answer "Yes" or "No".

Answer: NO

QUESTION 2

Did Plaintiff prove by a preponderance of the evidence that Defendant used Plaintiff's trademark in a manner likely to cause confusion, mistake, or deceit:

- (a) of typical or potential purchasers as to Defendant's goods' source, affiliation, sponsorship, or other association;
- (b) as to the origin, sponsorship, or approval of Defendant's goods; or
- (c) as to the affiliation, connection, or association of Defendant with Plaintiff?

If your answer to either (a), (b), or (c) is "Yes", answer "Yes". Otherwise, answer "No".

Answer "Yes" or "No".

Answer: No

A handwritten signature in black ink, appearing to be 'MHS', is located in the bottom right corner of the page.

Instruction: If your answer to Question 1 is “Yes” and your answer to Question 2 is “Yes”, then answer Question 3. Otherwise, do not answer Question 3.

QUESTION 3

Did Plaintiff prove by a preponderance of the evidence that:

1. MINI MELTS is a valid, protectable trademark for ice cream;
2. Plaintiff owns MINI MELTS as a trademark; and
3. Plaintiff has been or is likely to be injured as a result of Defendant’s use of Plaintiff’s mark?

Answer “Yes” only if you have found that Plaintiff has proved all of the above by a preponderance of the evidence. Otherwise, answer “No”.

Answer “Yes” or “No”.

Answer: _____

Instruction: If your answer to Question 1 is "No" and your answer to Question 2 is "Yes", then answer Question 4. Otherwise, do not answer Question 4.

QUESTION 4

Did Plaintiff prove by a preponderance of the evidence that Plaintiff has been or is likely to be injured as a result of Defendant's use of Plaintiff's mark?

Answer "Yes" or "No."

Answer: _____

The Foreperson is requested to initial and date this document in the spaces provided as the unanimous verdict of the jury.

JUNE 25, 2009
DATE

C.E.C.
FOREPERSON'S INITIALS

